IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6057 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KANDLA CLEARING AGENCY PVT LTD

Versus

UNION OF INDIA

Appearance:
Mr.D.Shah for
MR PARESH M DAVE for Petitioner No. 1-2
MR DN PATEL, Standing Counsel for the
Central Government for Respondents

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE N.G.NANDI

Date of decision: 30/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

Rule. Mr. D.N.Patel waives service of rule on behalf of respondents.

Learned counsel for the petitioners has submitted that the petitioners' Appeal alongwith stay application against the order dated 28.12.2000 passed by the Commissioner of Customs & Central Excise, Kandla is pending before the Customs, Excise & Gold (Control) Appellate Tribunal, Mumbai since 16.4.2001.

Learned counsel for the petitioners had submitted that coercive steps are being taken for the recovery during the pendency of the aforesaid Appeal alongwith stay Application; while the fact is that the said application has not been taken up although it is pending in the Tribunal since April 2001.

It has been submitted that CEGAT is not working to its full strength and even the 2nd Bench, which has started functioning only recently, is working for a few days in a week. This factual position is not disputed by the learned counsel for the respondents.

In the facts and circumstances of this case, we direct that no coercive measures for the recovery of the due amount in question shall be taken up until appropriate orders are passed by CEGAT in the stay Application in the petitioners' Appeal, which is pending, as above. CEGAT shall take up the stay Application within a period of eight weeks from today and pass appropriate orders in accordance with law.

This Special Civil Application is decided in the terms as aforesaid and rule is made absolute accordingly. No order as to costs. Direct service is permitted.

Dt:30.7.2001 (M.R.Calla,J)

(N.G.Nandi,J)